

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

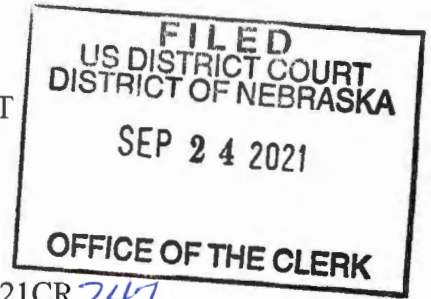
UNITED STATES OF AMERICA,

Plaintiff,

vs.

NOLAN B. BALFOUR and MAEGAN L.
BALFOUR,

Defendants.



8:21CR 247

INDICTMENT
18 U.S.C. § 1344
18 U.S.C. § 152(3)

The Grand Jury charges that

INTRODUCTION

At all times material to this Indictment:

1. First Nebraska Bank is a Nebraska banking corporation whose principal place of business is in Columbus, Nebraska. First Nebraska Bank is the successor to Heartland Community Bank. First Nebraska Bank is a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.
2. Beginning in approximately 2010, Defendants, Nolan B. Balfour and Maegan L. Balfour, conducted a farming operation in Nehawka, Nebraska of approximately 1,000 acres of land primarily growing corn and soybeans as well as raising cattle for sale.
3. In 2013, Defendants, Nolan B. Balfour and Maegan L. Balfour, took a loan out with First Nebraska Bank in the amount of \$1,160,000.00. The loan was a 5-year commitment that was renewable annually. As part of this agreement, Defendants, Nolan B. Balfour and Maegan L. Balfour, granted First Nebraska Bank a security interest in their assets, farm products, and government payments and programs. as collateral for the loan. In 2016, this loan was modified by execution of a Promissory Note Modification Agreement. This loan

was guaranteed up to 90% of the value by the Farm Service Agency (hereinafter “the FSA”). The FSA is the successor agency of the Farmers Home Administration and an agency of the United States Department of the United States Department of Agriculture within the meaning of 18 U.S.C. § 1014. The United States Department of Agriculture’s Secretary of Agriculture acts through the FSA.

4. In 2014, Defendants, Nolan B. Balfour and Maegan L. Balfour, took a loan out with First Nebraska Bank in the amount of \$103,069.00.
5. On December 31, 2017, Defendants, Nolan B. Balfour and Maegan L. Balfour, defaulted on the 2013 loan.
6. On January 29, 2018, Defendants, Nolan B. Balfour and Maegan L. Balfour, defaulted on the 2014 loan.
7. On May 17, 2018, First Nebraska Bank filed a Complaint in Replevin in the District Court of Otoe County, Nebraska. An Order of Replevin was granted on May 30, 2018.
8. On July 12, 2018, Defendants, Nolan B. Balfour and Maegan L. Balfour, filed for Chapter 12 Bankruptcy. As part of the bankruptcy proceedings, on August 6, 2018, Defendants, Nolan B. Balfour and Maegan L. Balfour, submitted schedules and statement of financial affairs summarizing their financial situation to include a Form 106A/B wherein they were to accurately and completely list all assets. Both Defendants, Nolan B. Balfour and Maegan L. Balfour, signed the schedules and statement of financial affairs under the penalty of perjury. On September 11, 2018, the bankruptcy was converted to chapter 7.

SCHEME AND ARTIFICE TO DEFRAUD

9. As part of these loans with First Nebraska Bank, Defendants, Nolan B. Balfour and Maegan L. Balfour, would annually complete a verification of assets. In this verification of assets, Defendants, Nolan B. Balfour and Maegan L. Balfour, completed verification sheets and

submitted financial statements regarding collateral they held. Defendants, Nolan B. Balfour and Maegan L. Balfour, knew that First Nebraska Bank would rely upon the annual verifications in determining whether to continue the loan.

10. Beginning in 2015, Defendant, Nolan B. Balfour, began experiencing shortfalls in his farming operation. Defendant, Nolan B. Balfour, did not reflect these shortfalls in his balance sheet.
11. On or about March 13, 2015, Defendant, Nolan B. Balfour, submitted a Balance Sheet dated January 16, 2015, summarizing his financial condition to First Nebraska Bank following the fiscal year 2014. In this statement, Defendant, Nolan B. Balfour, represented that he had a total equity of \$1,055,967.00. Defendant, Nolan B. Balfour, knew that this number was not true and accurate. In this financial statement, Defendant, Nolan B. Balfour, overstated his assets. Specifically, Defendant, Nolan B. Balfour, overstated the amount of corn and soybean that had been harvested and the heads of livestock he had on hand.
12. On or about March 11, 2016, Defendant, Nolan B. Balfour, submitted a Balance Sheet dated January 15, 2016, summarizing his financial condition to First Nebraska Bank following the fiscal year 2015. In this statement, Defendant, Nolan B. Balfour, represented that he had a total equity of \$1,055,957.00. Defendant, Nolan B. Balfour, knew that this number was not true and accurate. In this financial statement, Defendant, Nolan B. Balfour, overstated his assets. Specifically, Defendant, Nolan B. Balfour, overstated the amount of corn and soybean that had been harvested and the heads of livestock he had on hand.
13. On or about April 6, 2017, Defendant, Nolan B. Balfour, submitted a Balance Sheet dated January 10, 2017, summarizing his financial condition to First Nebraska Bank following the fiscal year 2016. In this statement, Defendant, Nolan B. Balfour, represented that he had a total equity of \$638,328.00. Defendant, Nolan B. Balfour, knew that this number was

not true and accurate. In this financial statement, Defendant, Nolan B. Balfour, overstated his assets. Specifically, Defendant, Nolan B. Balfour, overstated the amount of corn and soybean that had been harvested and the heads of livestock he had on hand.

14. Defendant, Nolan B. Balfour, submitted an unsigned Balance Sheet dated January 10, 2018, summarizing his financial condition to First Nebraska Bank following the fiscal year 2017. In this statement, Defendant, Nolan B. Balfour, represented that he had a total equity of \$605,161.00. Defendant, Nolan B. Balfour, knew that this number was not true and accurate. In this financial statement, Defendant, Nolan B. Balfour, overstated his assets. Specifically, Defendant, Nolan B. Balfour, overstated the amount of corn and soybean that had been harvested and the heads of livestock he had on hand.
15. Beginning on or about September 1, 2014 through on or about February 28, 2018, Defendant, Nolan B. Balfour, would sell pledged collateral, to wit: corn and soybeans, at Bunge in Council Bluffs, Iowa or Southwest Iowa Renewable Energy, LLC in Council Bluffs, Iowa. This grain was pledged collateral to First Nebraska Bank. Defendant, Nolan B. Balfour, received the proceeds in his name only and deposited the proceeds at Nehawka Bank to avoid First State Bank's security interest. Defendant, Nolan B. Balfour, received 15 checks totaling \$194,463.66. In doing so, Defendant, Nolan B. Balfour, sold the pledged collateral and converted the proceeds to fund his living costs and to build a new home.

LOSS CAUSED BY THE FRAUD

16. As a result of the scheme to defraud alleged herein, First Nebraska Bank, suffered an approximate loss of \$555,205.93.

Count I – Bank Fraud

17. Paragraphs 1 through 16 of the Indictment are incorporated by reference as if fully set forth herein.

18. Beginning on or about January 1, 2016, through January 31, 2018, in the District of Nebraska, Defendant, Nolan D. Balfour, did knowingly execute and attempt to execute a scheme and artifice to defraud First Nebraska Bank, a federally insured financial institution, and obtain money, funds, credits, assets, securities, and other property owned by, and under the custody and control of First Nebraska Bank, by means of materially false and fraudulent pretenses, to wit: by submitting inaccurate balance sheets overstating his financial position by inflating the number of cattle on hand and crop yields.

In violation of Title 18, United States Code, Section 1344.

Count II – Bank Fraud

19. Paragraphs 1 through 16 of the Indictment are incorporated by reference as if fully set forth herein.

20. Beginning on or about September 1, 2014, through February 28, 2018, in the District of Nebraska, Defendant, Nolan D. Balfour, did knowingly execute and attempt to execute a scheme and artifice to defraud First Nebraska Bank, a federally insured financial institution, and obtain money, funds, credits, assets, securities, and other property owned by, and under the custody and control of First Nebraska Bank, by means of materially false and fraudulent pretenses, to wit: selling mortgaged crops out of state and depositing the checks at Nehawka Bank to avoid First Nebraska Bank's security interest.

In violation of Title 18, United States Code, Section 1344.

Count III – False Bankruptcy Declaration

21. Paragraphs 1 through 16 of the Indictment are incorporated by reference as if fully set forth herein.

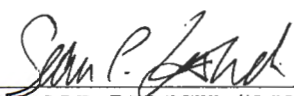
22. On or about the 16th day of August, 2018, in the District of Nebraska, the Defendants, Nolan D. Balfour and Maegan L. Balfour, did knowingly and fraudulently make a material false declaration, certificate, and verification under the penalty of perjury, as permitted under Section 1746 of Title 28, in the Chapter 12 bankruptcy case at Case Number 18-81002, by submitting Schedules of Assets and Liabilities and a Statement of Financial Affairs, in which the Defendants fraudulently omitted to disclose all livestock and equipment they possessed.

In violation of Title 18, United States Code, Section 152(3).

A TRUE BILL.


FOREPERSON

The United States of America requests that trial of this case be held in Omaha, Nebraska, pursuant to the rules of this Court.


SEAN P. LYNCH, #25275
Assistant United States Attorney